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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,711	12/12/2005	Goran Berglund	47113-0538	5477
55694 7590 03/13/2009 DRINKER BIDDLE & REATH (DC) 1500 K STREET, N.W. SUITE 1100 WASHINGTON, DC 20005-1209				
EXAMINER				
YEE, DEBORAH				
ART UNIT		PAPER NUMBER		
1793				
MAIL DATE		DELIVERY MODE		
03/13/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/519,711

**Applicant(s)**

BERGLUND, GORAN

**Examiner**

Deborah Yee

**Art Unit**

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 February 2009.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 7 to 17 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1 and 7 to 17 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 30 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Terminal Disclaimer***

1. The terminal disclaimer filed on February 2, 2009 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent 6,475,307 has been reviewed and is accepted. The terminal disclaimer has been recorded.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 7 to 13 and 15 to 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,630,103 ("Martin"), Japanese patent 402310339 ("JP-339") or Japanese patent 407011391("JP-391") in view of US Patent 5,241,748 ("Ishida'748") or US Patent 5,308,089 ("Ishida'089") for the reasons set forth in the previous office action dated November 3, 2008.

4. Even though prior art does not teach quasi-crystalline particles in the martensitic microstructure as recited by the claims, such particles would be expected since composition and process of making particles are closely met. Note Applicant's claim 7 recites "quasi-crystalline particles in the martensitic microstructure are a result of a precipitation hardening process". Similar to present invention, prior art teaches age hardening which is equivalent to precipitation hardening. See Martin on lines 12 to 21 in

column 6 teach age hardening at 510 to 593°C; JP-339, last 2 paragraphs in column 2 on page 211 teach age hardening at 425-500°C; and JP-391 in paragraph [0014] teaches age hardening at 425-550°C for 10 minutes or more.

5. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,630,103 ("Martin"), Japanese patent 02-310339 ("JP-339") or Japanese patent 407011391("JP-391") in view of US Patent 5,241,748 ("Ishida'748") or US Patent 5,308,089 ("Ishida'089") as applied to claims 1, 8 to 13 and 15 to 17 above, and further in view of WO 01/79585 ("WO'585") for the reasons set forth in the previous office action dated November 3, 2008.

#### ***Response to Arguments***

6. Applicant's arguments filed February 2, 2009 have been fully considered but they are not persuasive.

7. It was argued that claims recite "quasicrystalline particles in a martensitic matrix" which is not taught by prior art. It is the Examiner's position that quasicrystalline particles would be inherent in prior art alloy since process of making particles by age hardening (equivalent to precipitation hardening) is performed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deborah Yee whose telephone number is 571-272-1253. The examiner can normally be reached on monday-friday 6:00 am-2:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on 571-272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Deborah Yee/  
Primary Examiner  
Art Unit 1793

/DY/